IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1069 OF 2005

Ramesh Baburao Keng ...Petitioner

Versus

The Divisional Controller,
M.S.R.T.C. & Anr ...Respondents

.....

Mrs. Seema Sarnaik, counsel for Petitioner

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CORAM: B. H. MARLAPALLE, J.

DATED: 25TH APRIL, 2005

P. C.:-

1. Heard Mrs. Sarnaik, the learned counsel for the petitioner who came to be dismissed from service of the respondent Corporation by order dated 23.2.1998. He had challenged the said order in complaint (ULP) No. 40 of 1998 before the Labour Court at Nasik and the said complaint was allowed partly. The dismissal order was set aside and the complainant was directed to be reinstated with continuity of service but without backwages. This order dated 26.12.2003 came to be challenged in Revision (ULP) No. 20 of 2004 before the Industrial Court at Nasik and the said revision has been allowed by the learned Member vide his judgment and order dated 8.9.2004. The Industrial Court has set aside the impugned order

dated 26.12.2003 and remanded the complaint (ULP) No. 40 of 1998 for fresh hearing to the Labour Court with liberty to the parties concerned to adduce evidence, if any. The Labour Court has been further directed to decide the matter as far as possible within a period of six months from the date of receipt of the record and proceedings.

2. Mrs. Sarnaik, the learned counsel on instructions states that even though the period of six months from 9.8.2004 is over, the complaint on remand is still pending before the Labour Court. Be that as it may, the fact remains that the Labour Court had found that the enquiry conducted against the complainant was fair and proper. The findings of the enquiry officer have been held to be partly perverse solely for the reasons that all the documents were not placed before the enquiry officer. The Industrial Court did not agree with this finding for the simple reason that the complainant had filed a pursis at Exh.21 and admitted that in respect of the documents he had no grievance. The Industrial Court therefore, held that there was no reason for the Labour Court to observe that the documents relevant were not produced on the basis of the charges which were levelled in respect of the amount alleged to be misappropriated by the complainant to the tune of Rs.6,37,585/- and the respondent is a

public body. Under such circumstances, the view taken by the Industrial Court in remanding the complaint for fresh trial with liberty to the parties to adduce additional evidence, if any, cannot be held to be perverse or manifestly erroneous so as to call for interference in a writ petition under Article 227 of the Constitution. In fact both the parties would have better opportunities to support their respective claims by leading additional evidence and assist the Court and ensure that the complaint was decided within six months.

3. Hence, this petition fails and the same is hereby rejected summarily.

4. It is directed that the trial of the complaint (ULP) No. 40 of 1998 shall be completed before 30.06.2005 on remand.

5. Writ to go forthwith to the court below.

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